

By Circulation
Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Review Application No. 50 of 2018

(Inre O.A. No. 69 of 2018)

Thursday, this the 6th day of September, 2018

Hon'ble Mr. Justice S.V.S.Rathore, Member (J)

Hon'ble Air Marshal BBP Sinha, Member (A)

Smt. Mira Devi
W/o Late Arun Kumar
(No. 14395501X Gnr)
Resident of No-5, Officer's Line
Kariappa Road, New Cantt
Allahabad – 211003 (UP)

..... Applicant

By Legal Practitioner – Shri R. Chandra,
Learned counsel for the Applicant

Versus

1. Union of India through , the Secretary,
Ministry of Defence, Government of India,
New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarters of Ministry of
Defence (Army) DHQ, Post Office, New Delhi-110011.
3. The Officer-in-charge, Artillery Records, APS PIN – 908802,
C/o 56 APO.
4. PCDA (P) Draupadi Ghat, Allahabad (UP).

.....Respondents

By Legal Practitioner – Shri V.P.S. Vats,
Learned counsel for the Respondents

ORDER

1. The applicant has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008. The matter came up before us by way of Circulation as per provisions of Rule 18 (3) of the Armed Forces Tribunal (Procedure) Rules, 2008. This review application has been filed by the applicant for review of order 14.08.2018 passed by

this Tribunal in O.A. No. 69 of 2018, whereby the prayer of the applicant for grant of disability pension to the applicant's husband was allowed. However, the amount of arrears of family pension was restricted for a period of three years.

2. It is submitted that in the O.A., the applicant has not made prayer for grant of family pension and has made prayer for grant of disability pension only. Therefore, the relief for grant of family pension was beyond the prayer of the applicant and therefore this mistake deserves to be corrected as it is an error apparent on the face of record.

3. We have examined the record and we find substance in the Review Application. The submission of the learned counsel for the applicant is that this Tribunal, while granting family pension to the applicant, has restricted family pension for a period of three years but in case no direction would have been passed, then the applicant would have received the family pension by the respondents from the date of her entitlement for family pension. Point of family pension has been decided by the Tribunal without there being any pleading to that effect nor there was any prayer claiming the relief of family pension. Thus, there exist an error apparent on the face of record. We find substance in this review application.

4. In view of the above, we hereby **allow** this Review Application and delete the following lines from the operative portion of the order under review :

“The arrears of service element shall be restricted to three years before the death of the applicant's husband i.e. 27.05.2006. The respondents are also directed to pay family pension to the applicant, who is the legal wife after the death of the applicant's husband. However, the arrears of family pension to the legal wife shall be restricted to three years before filing this O.A. Date of filing this O.A. is 14.08.2017.”

With the aforesaid modification of the order, this Review Application stand **disposed of**.

(Air Marshal BBP Sinha)
Member (A)

Dated : September, 2018
SB

(Justice S.V.S.Rathore)
Member (J)